

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TRADE WELL INTERNATIONAL,

Plaintiff,

v.

UNITED CENTRAL BANK,

Defendant.

OPINION & ORDER

12-cv-701-wmc

The court is in receipt of plaintiff Trade Well International's Motion to Extend the Time to Move All Damaged Equipment and to Compel Defendant to Pay for Moving and Storing All *Damaged* Equipment (dkt. #43), as well as defendant United Central Bank's objections (dkt. #48). In the motion, plaintiff represents that some of the equipment to be moved is so infested with mold that the moving and warehouse companies it has contacted thus are unwilling to allow it in their trucks or warehouses. Based on that representation, the court will extend plaintiff's deadline to clear its equipment out of defendant's hotel by 21 days, to Friday, January 24, 2014. No further extensions of this deadline will be granted. Should plaintiff leave any of its property in the hotel after that date, it will be deemed abandoned, consistent with this court's order of December 4, 2013 (dkt. #36).

Plaintiff also requests that the court compel defendant to pay for moving and storing the property and, apparently, that it order defendant to be responsible for finding a company willing to do so. The court will deny that request. As the court explained at the last hearing, plaintiff has a clear choice: (1) it can determine that the damaged property retains enough value to justify the costs of moving, storing and treating it; or (2) it can abandon the property, recognizing that defendant may then argue that it failed to mitigate

its damages. If the damaged equipment is as mildew infested as plaintiff now represents, it would seem defendant will not have much of a mitigation defense (at least as to abandonment), though plaintiff may want to better document its condition before abandoning it.

ORDER

IT IS ORDERED that plaintiff Trade Well International's Motion to Extend the Time to Move All Damaged Equipment and to Compel Defendant to Pay for Moving and Storing All *Damaged* Equipment (dkt. #43) is GRANTED IN PART and DENIED IN PART, consistent with the opinion above.

Entered this 3rd day of January, 2014.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge